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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,789	03/16/2004	Mark Alan Court		9176

7590 02/13/2006
Mark Court
306 3rd Street
Wheatland, CA 95692

EXAMINER

TSIDULKO, MARK

ART UNIT PAPER NUMBER

2875

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/800,789	Applicant(s) COURT, MARK ALAN	
	Examiner Mark Tsidulko	Art Unit 2875	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

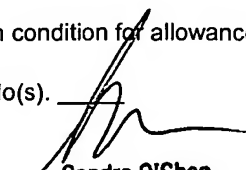
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.


 Sandra O'Shea
 Supervisory Patent Examiner
 Technology Center 2800

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. Group Director does not ~~review~~ ^{renew} applications when there is disagreement between the Examiner and the Applicant.. Since you insist that your lighting device is to obtain a particular ornamental design (formed of two cats only), please note, that it relates to design patent application only, not a utility patent which is what you had filed. In a design patent application, the subject matter which is claimed is the design embodied in or applied to an article of manufacture and not the article itself (see MPEP, chapter 1500). The differences of opinion can be justly resolved by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art deficiencies in the disclosure set forth in the application, an appeal procedure within the Office and to the courts has long been provided by statute (see MPEP, chapter 1200). Disagreement with rejection of claim of the instant application is appealable.

Not
for
M.T.

Mark Court
306 3rd Street
Wheatland, CA 95692



AF/DFW

20 Dec 2005

In regards to: Patent Application 10/800,789

Director
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Subject: Rebuttal to Final Office Action Summary mailed on 16 Nov 05 (page 1 of 10)

Dear Sir or Ma'am,

It should be understood by all in the USPTO that disrespect is not the intention of this correspondence. My intention is to reply to the most recent Office Action Summary with the most accurate information possible in defense of my patent application and request for issuance of a patent. Please reference my last 6 page correspondence (dated 12 Oct 2005) as the contents of that letter is important to this response to the USPTO Final Office Action Summary mailed on 16 Nov 2005. In my last correspondence I requested review by the Director of the USPTO. I requested this review specifically because I wanted a third party review that was above and outside the purview of the examiner Mark Tsidulko, primary examiner John Ward and supervisor Sandra O'Shea. The response I received was my request was delegated to the SPE. John Ward signed the latest Office Action Summary and the examiner is once again listed as Mark Tsidulko. Therefore I did not receive the third party review that I requested. This is an important factor as I am requesting a review by the Director to verify fairness, correctness and legal accuracy of the examination procedures conducted on my patent application. Once again, as I present this latest rebuttal to the USPTO I request a review by the Director of the USPTO or the highest third party review authorized outside of Art Unit 2875 and above individuals listed above. After presenting my 6 page rebuttal in my last correspondence, I finally persuaded John Ward and Mark Tsidulko that the Claim Rejections in the first two Office Action Summaries were **not** valid. The reference cited in the Office Action Summaries was Lamparter, (US 5,604,480). In my 6 page document I provided strong evidence to disprove the statements documented in the Claim Rejections. In these previous two Office Action Summaries (before the most recent) the examiner attempted to back his Claim Rejections with a strategy of suggesting a previously described/patented invention with reference to Title 35 U.S.C. 102(b) and also attempted to document that the invention was obvious in view of the reference cited. My 6 page rebuttal successfully argued that the Claim Rejections were in fact **not** correct. In the latest Office Action Summary the examiner and primary examiner cite three new inventor references and move their strategy full focus to rejection under the following Title:

35 U.S.C. 103 Conditions for patentability; nonobvious